

REMARKS

Claims 1-32 are pending in the present application. Claims 21-32 are withdrawn from consideration. Claims 1, 3-5 and 18 have been amended to correct a typographical errors. A substitute specification has also been submitted to correct one of these typographical errors present throughout the application and other spelling errors.

Claims 1-12 and 17-20 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,199,428 to Obel ("Obel"). According to the Examiner, "the T-2 stimulation rate in Obel is regulated by venous oxygen saturation which clearly has an effect on heart contractility." Further, the Examiner states that 'tachyarrhythmia' would in essence be related to heart contractility in the broadest sense." Office Action, page 3.

Applicant respectfully takes issue with such an analysis of Obel and submit that a closer reading of Obel reveals that Obel in no way teaches the elements of the present claims. As an initial matter, Applicant points out that the present claims are directed to affecting heart contractility by electrically stimulating a ganglion of the sympathetic nerve chain and adjusting at least one parameter of the electric signal until heart contractility has been affected. Applicant recognizes that Obel mentions that the level of myocardial contractility is a determinant of the heart's oxygen needs. However, such a general statement cannot be read to mean that Obel teaches affecting heart contractility by stimulating a sympathetic chain ganglion and adjusting a parameter of the stimulation until heart contractility has been affected. Obel only describes methods of "detecting ischemia and both affecting stimulation of nerves regulating blood pressure and heart rate to reduce the heart's oxygen requirements" col. 3, lines 7-10. There is absolutely no teaching at all of "affecting heart contractility" as recited by the present claims. Just because Obel mentions that myocardial contractility is a factor in determining the heart's oxygen needs and describes regulating blood pressure and heart rate to reduce the heart's oxygen needs, in no way leads to the conclusion that Obel teaches affecting heart contractility by stimulating a sympathetic chain ganglion and further adjusting a parameter of the stimulation to affect heart contractility. Furthermore, Applicant points out that affecting blood pressure, or heart rate (tacharrhythmia) is not the same as

affecting heart contractility, which refers to the ability of the heart to contract or compress and force blood through the heart's chambers.

CONCLUSION

It is respectfully submitted that the present application is now in condition for allowance, which action is respectfully requested. The Examiner is invited to contact Applicant's representative to discuss any issue that would expedite allowance of the subject application.

If any fees for extension(s) of time or additional fees are required in connection with the filing of this response, such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is authorized to charge any such required fees or to credit any overpayment to Kenyon & Kenyon's Deposit Account No. 11-0600.

Respectfully submitted,

KENYON & KENYON

By: 

Zeba Ali

Reg. No. 51,392

June 23 2004

1500 K. Street N.W.
Washington, DC 20005
Tel.: (202) 220-4200
Fax: (202) 220-4201
486750